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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,024	04/06/1999	ULRICH DELIUS	051009/0119	1786

7590 11/20/2002

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EXAMINER

HON, SOW FUN

ART UNIT	PAPER NUMBER
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1772

18

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/284,024

Examin r

Sow-Fun Hon

Applicant(s)

DELIUS, ULRICH

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Request for Reconsideration***

#### ***Election/Restrictions***

1. Applicant's election without traverse of claims 1-11 in Paper No. 15 is acknowledged.

Claims 12-14 have been withdrawn from consideration. There are no claims 15-16.

#### ***Rejections Repeated***

2. The 35 U.S.C. 103(a) rejection of claims 1-11 as being unpatentable over Grund in view of Chacko et al.

#### ***Response to Arguments***

3. Applicant's arguments filed 08/29/02 have been fully considered but they are not persuasive.

4. Applicant argues that it is unclear whether Grund is modified

- a. by replacing the five-layered film with a single layered film disclosed in Chacko,
- b. by replacing each of the inner and outer polyamide layers of Grund with Chacko's polyamide film composition, or
- c. by incorporating the poly(amide-ether) block copolymer of Chacko into the inner and outer polyamide layers of Grund.

Applicant is respectfully apprised that Grund is modified by incorporating the poly(amide-ether) block copolymer of Chacko into the inner and outer polyamide layers of Grund. Chacko teaches that the polyamide-ether composition has a combination of low initial

Art Unit: 1772

modulus, while maintaining good ultimate tensile strength and ultimate elongation so as to allow the film to conform easily to a mold and yet permit stretching to conform to the mold under differential pressure, whereas unmodified (polyamide not modified by ether) films tend to be unacceptably stiff and do not conform well to complicated shapes ('274, column 5, lines 25-50), and that the films are used widely for food packaging (column 1, lines 25-30), thus providing the advantage and hence the motivation to use the polyamide-ether compositions as part of the polyamide composition in the invention of Grund in order to obtain a food casing with the desired conformability.

5. Applicant argues that it would be incorrect to say that replacing each of the inner and outer polyamide layers in the food casing of Grund with the polyamide-ether composition of Chacko would allow easy conformability and yet permit stretching, because the properties of the five-layered casing of Grund would also depend on the polyolefin core layer and primer layers.

Applicant is respectfully apprised that since the five-layered food casing of Grund is indicated as being used in particular as a sausage casing, there is already a certain amount of conformability which would be improved upon by increasing the conformability of the polyamide layers.

6. Applicant argues that it would be incorrect to say that there is motivation to incorporate the polyamide-ether block copolymer into Grund's inner and outer layers of food casing since the only mention of food packaging applications in Chacko appears in the "Description of Related Art" section of the specification and simply related to polyamides of the prior art such that the statement does not address the suitability of Chacko's specific composition in food applications.

Art Unit: 1772

Application is respectfully reminded that Chacko merely teaches what is well-known in the art, specifically that polyamide polymers and copolymers, and hence polyamide-ether block copolymers are used in food packaging. Applicant is respectfully directed to US 4,486,507 (cited but not used in a prior action) as a teaching reference which demonstrates that it is well known to one of ordinary skill in the art that polyamide-ether block copolymers (polyamide modified by ether) are directly used in food packaging (abstract, column 3, lines 1-55).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

Art Unit: 1772

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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11/15/02

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

11/18/02